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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,946	09/20/2005	Robin A. Felder	21764L-001200US	7118
20350 7590 04/22/2009 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
			EXAMINER NATNITHITHADHA, NAVIN	
			ART UNIT 3735	PAPER NUMBER
			MAIL DATE 04/22/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/549,946

**Applicant(s)**

FELDER ET AL.

**Examiner**

NAVIN NATNITHADHA

**Art Unit**

3735

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. According to the Amendment, filed 22 January 2009, the status of the claims is as follows:

Claims 3, 6, 7, 9, 11, 19-21, 24, 25, 27, and 28 are as originally filed; and

Claims 1, 2, 4, 5, 8, 10, 12, 13-18, 22, 23, 26, and 29- 34 are previously presented.

### ***Response to Arguments***

2. Applicant's arguments, see Remarks, pp. 7-8, filed 22 January 2009, with respect to the rejection of claims 1-34 under 35 U.S.C. 103(a) as being unpatentable over Barnes et al, U.S. Patent No. 5,406,952 A ("Barnes"), in view of Lemelson, U.S. Patent No. 4,299,233 A ("Lemelson"), have been fully considered, but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear whether the "interface member" in line 2 is the same element as the "interface member" in line 4.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemelson, U.S. Patent No. 4,299,233 A ("Lemelson"), in view of Barnes et al, U.S. Patent No. 5,406,952 A ("Barnes").

Claims 1-21: Lemelson teaches the following:

A pulse rate system for deriving pulse of a subject that is in communication with an interface member (see figs. 1-4), said system comprising:  
an inflated interface member 10 maintained at a substantially constant pressure, wherein said interface member is configured to function when in indirect contact with the subject's body (see col. 1, ll. 6-43, and col. 2, ll. 55-67); and  
a sensor module 30 in communication with said interface member 10, said sensor module 30 for detecting a pulse waveform (see col. 1, ll. 6-43, and col. 2, ll. 55-67); and  
a processor module that analyzes the pulse wave form (see col. 5, ll. 20-54).

Lemelson does not teach "a processor module that analyzes the pulse wave form and pulse rate signal for deriving variants of blood pressure".

However, Barnes teaches the following:

a blood pressure and pulse rate system for deriving the blood pressure and pulse of a subject that is in communication with an interface member (see Abstract), said system comprising:  
a sensor module 52 in communication with an interface member 54, said sensor module 52 for detecting a pulse wave form and pulse rate; and  
a processor module 200 that analyzes the pulse wave form and pulse rate signal for deriving variants of blood pressure (see col. 1, ll. 26-49).

Thus, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Lemelson's processor module with Barnes's processor module 200 that analyzes the pulse wave form and pulse rate signal for deriving variants of blood pressure because Lemelson suggests housing, containing the described sensor, "may also contain microprocessing electronic means for processing the signals so generated to determine the condition of the patient and operable to generate output control signals for controlling the alarm and display means as provided in said copending application or otherwise disclosed in the prior art" (see col. 5, ll. 43-54).

Barnes additionally teaches subject matter of the dependent claims 2-21 (see col. 2, l. 19, to col. 10, l. 36).

Claims 22-31 and 33: Because the subject matter of claims 22-31 and 33 directed to a method that is not distinct from the subject matter of claims 1-21 directed to a system, Barnes in view of Lemelson teaches claims 22-31 and 33 for the same reasons as that provided for the rejection of claims 1-21 above.

Claims 32 and 34: Because the subject matter of claims 32 and 34 directed to a computer program product that is not distinct from the subject matter of claims 1 and 5 directed to a system, Barnes in view of Lemelson teaches claims 32 and 34 for the same reasons as that provided for the rejection of claims 1 and 5 above.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The other patents cited in the PTO-892 teach subject matter related to the Applicant's claims. The Examiner suggests reviewing these patents before responding to the present Office Action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NAVIN NATNITHITHADHA whose telephone number is (571)272-4732. The examiner can normally be reached on Monday-Friday, 9:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II can be reached on (571) 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Navin Natnithithadha/  
Patent Examiner, Art Unit 3735  
04/21/2009